

INDEPENDENT PHASE ONE PLANNING FORUM FOR HS2

PLANNING FORUM NOTE 17 INFORMATION FOR DECISION MAKING

Introduction

1. This Planning Forum Note provides general guidance on the operation of the Schedule 17 planning regime. It should be read in conjunction with the Schedule 17 Statutory Guidance issued by the Secretary of State (May 2021).

Information for Decision Making

2. Planning authorities must only address relevant considerations when making a determination under Schedule 17. Therefore any information requested should be relevant to the limited specified grounds of refusal.
3. The nominated undertaker will provide a reference, in submissions made under Schedule 17, to the section of the HS2 Environmental Statement where the environmental impacts of the part of the works for which approval is being sought is reported. Where it appears to a local planning authority that the environmental information contained in the HS2 Environmental Statement is not adequate to assess the likely significant effects of the works on the environment, Local Authorities shall request HS2 to provide further information for that purpose. The relevant environmental baseline for this purpose is the baseline used in the HS2 Environmental Statement, not the environmental baseline at the time at which the Schedule 17 request is made.
4. Annex 1 to this Planning Forum Note sets out further guidance on what information could be required to make Schedule 17 decisions. While there may be certain requests for approval that require further information, the Annex provides general guidance on the level and type of information which may be appropriate to Schedule 17 decisions. The types of information listed in Annex 1 should not be taken as necessary for every Schedule 17 request. The nominated undertaker will provide such information as is requested as being reasonably required to make Schedule 17 decisions or explain why such information is not considered necessary to the determination.
5. Information requested by a planning authority should be relevant to the application and necessary to enable the authority to understand the impacts of the proposal that are relevant to the statutory grounds for determination.
6. The level of information needed to make a decision is linked to the individual nature of the application site. For example, archaeological survey information may be required for locations with policy or statutory designations but is not required in all cases.
7. Phase 1 of HS2 was subject to an environmental impact assessment. An Environmental Statement was submitted to Parliament with the High Speed Rail (London – West Midlands) Bill. Where baseline information is reasonably necessary for decision making the expectation will be that this will be drawn from that Environmental Statement.

8. The EMRs define for various matters the level of survey and investigation or approach that the nominated undertaker will undertake. Where such information is relevant to the grounds in the Schedule, it can be expected to be provided to them to inform decision making. The level of survey and investigation or approach was agreed through the Parliamentary process. Planning authorities should not request a level of survey information or investigative approach different or beyond that which was settled in the EMRs.
9. Further information that has been provided to inform a decision should not itself be approved unless required to be approved in the relevant paragraph in Schedule 17.
10. The effect of the Judgment¹ is not to allow planning authorities to have by default all the information they would have for a decision under the Town and Country Planning Act. The Judgment is clear that authorities should be provided with adequate and sufficient information to enable them to fulfil their duties under Schedule 17. In the application of this it should be borne in mind that Schedule 17 requests for approval are not fresh applications for planning permission but are the approval of details pursuant to the conditions granted deemed planning permission under the Act.
11. HS2 should furnish the local planning authority only with the information that is necessary to enable the impact of the proposals to be evaluated by the local planning authority against the relevant grounds. A decision should then be made on the basis of that information.

¹ the decision of the Court of Appeal in the case of London Borough of Hillingdon v Secretary of State for Transport and others [2020] EWCA Civ 1005.

ANNEX 1

Purpose

- i. The Planning Forum Notes agreed by the Phase 1 High Speed Two Planning Forum set the level of information generally required to determine Schedule 17 requests and should be relied on. This Annex provides guidance on the type of additional information that could be appropriate to Schedule 17 decisions beyond that specified in Planning Forum Notes. When considering whether to request information planning authorities should do so in accordance with the principles in the Statutory Guidance and this Planning Forum Note.

Requests for approval under paragraphs 2, 3 and 7

Information relating to sites of archaeological interest or historic interest

- ii. Where a request for approval relates to a designated archaeological site, whether a Scheduled Ancient Monument or an area designated in planning authorities' local plans such as an Archaeological Priority Area, an Archaeological Summary Statement will be provided. This will include a brief description of the relationship between the request for approval and archaeological assets within or close to the site, commentary on the status of any archaeological works relevant to the Schedule 17 submission, including relevant documents and/or document references and stakeholder consultation undertaken to date and any measures taken to address the historic environment in design. Archaeological survey information may be required for locations with policy or statutory designations but is not required in all cases.
- iii. Such information (i.e. the information on archaeology) cannot be necessary for the planning decision where the nature of the works require the removal of all archaeology during the construction process regardless of the design approved under Schedule 17, for example a cutting that requires the removal of all material.
- iv. The effects of the design and external appearance of works on the historic environment is contained in the plans submitted for approval as well as the information contained in the written statement or the design and access statement. This will include a brief description of the relationship between the works that are the subject of the request for approval and any designated heritage assets in the vicinity, including any significant impacts on the setting of listed buildings and any measures taken to address these impacts in design.

Information relating to sites of nature conservation value

- v. The construction of HS2 generally requires the clearing of land within Act limits for construction. Therefore, nature conservation information is generally not required for applications as the design approved under Schedule 17 will not affect the area to be cleared for construction. Where this is not the case ecological information can be expected to be provided with the application. This will be drawn from the Environmental Statement baseline and supplemented, where available, with more recent survey information.

Information relating to road safety or on the free flow of traffic

- vi. Approvals under paragraphs 2 and 3 relate to the design of the physical works not their use. Therefore, any information requested must relate to the direct interaction of the proposals with the highway and not seek to assess the impact of HS2 on the wider highways network. It could therefore be justified to request pedestrian modelling of a footpath beside a station in order to understand the effects on road safety.

- vii. It may also be appropriate to request drawings showing highway visibility splays or tracking drawings

Information on local environment or local amenity

- viii. The effects of the design and external appearance of works on local environmental and local amenity is contained in the plans and specifications submitted for approval and well as the information contained in the written statement or the design and access statement. While not material to the determination information on operational noise will be provided where required by paragraph 7.5.2 of the HS2 Phase One Planning Memorandum.
- ix. Where relevant to the grounds in Schedule 17, a planning authority may request information on maximum lux levels on the vertical plane of the nearest residential property where there are concerns regarding the effects on residential properties, or an isolux contour map.

Requests for approval under paragraph 6

- x. Where a request for approval is sought for a lorry route or routes, further information may be requested by the qualifying authority only where relevant to understanding the impact of the use of the route and whether a modification is reasonably necessary. The requirement for this information should be demonstrated, and the scope of information should be agreed through pre-application engagement between the nominated undertaker, the qualifying authority and statutory consultees. Information should relate to the grounds in paragraphs 6(5). For example, details of how Large Goods Vehicles are monitored is not relevant to an understanding of the suitability of a route. Road widths are relevant to the consideration of the suitability of a route.
- xi. The following arrangements can be expected to be submitted with requests for approval in all cases:
- The route or routes to be used by LGVs (including the direction of entrance/ egress to a site or sites).
- xii. The following arrangements can be expected to be provided with requests for approval and may be subject to approval where the qualifying authority considers it necessary in order to control the matters contained in paragraph 6(5)(b) of the Schedule:
- The proposed timing of the use of a route or routes; and
 - The numbers of LGV to use a route or routes.
- xiii. The following are examples of further information which may be necessary to allow the qualifying authority to consider a request for approval under paragraph 6 but are not arrangements subject to approval under paragraph 6 where not already available within the ES or there is a substantial change in HS2's proposals:
- Traffic assessments (note – it is not reasonable to require provision of updated traffic assessments to current conditions. The relevant baseline data is that contained in the HS2 Environmental Statement);
 - Modelling of traffic flows at individual junctions along a route that have been subject to previous assessment and where it is reasonable to expect that the changes to HS2's proposals would result in substantially higher congestion than previously assessed; and
 - Cumulative Large Goods Vehicle flows from all HS2 works.
- xiv. The following are examples of information that is not relevant to an understanding of the suitability of a route:
- Details of vehicle monitoring;

- Details of the management of accesses;
- The designs of access to worksites approved under Schedule 4; and
- Existing highway condition and provision of any works to be carried out to the route.

xv. It is not reasonable to require the modelling of alternative Large Good Vehicles routes.

Bringing into Use

xvi. Any information provided should be relevant to the mitigation of the effect of the use or operation of the Schedule 1 Works and the planning authority should be clear as to the effect it is concerned about. Planning Forum Note 7 defines the information that will be provided with a Bringing Into Use submission. Planning authorities should identify any further information they may need early in the pre-application process.